

## **Remarks**

### Claim Status

The claims are not amended by this response. Claims 1-5 and 26-29 are pending.

### Interview Summary

A telephone interview was conducted between Examiner Teena Mitchell and Applicant's attorney, Ken Smith, on November 21, 2007. The rejection of the claims in view of U.S. Patent No. 7,007,696 to Palkon et al. (herein "the Palkon patent") was discussed. Specifically, the assertion in the Office Action that the Palkon patent discloses "that the inner wall of the cushion of the Palkon patent being discontinuous in said nasal bridge region of said cushion (Fig. 3)" was discussed. See Office Action, p.4 Applicant's attorney pointed out that the inner wall of the cushion disclosed by the Palkon patent is continuous, not discontinuous, in the nasal bridge region of the cushion. Examiner Mitchell indicated that she tended to agree, but would review the rejection and the Palkon patent in more detail when Applicant responds to the Office Action. Examiner Mitchell indicated that she would call Applicant's attorney before providing another rejection.

### Oath/Declaration

A new declaration in compliance with 37 CFR 1.67(a) is attached to this response.

### Claim Rejections

The Office Action rejected claims 4, 5, and 26-29 in view of the Palkon patent. Claims 4, 5, and 26-29 are patentable over the Palkon patent, because they include features that are not disclosed by the Palkon patent. For example, claim 4 recites "said inner wall of said cushion being discontinuous in a nasal bridge region of said cushion." The membranes 46, 47 of the cushion disclosed by the Palkon patent are clearly continuous in the nasal bridge region. The Palkon patent states that the "membranes 46b, 47, and 48b at the nasal bridge region 38 of the cushion 30 are all about the same thickness." Palkon patent, Col. 4, ll. 13-14. In addition, both inner membranes 46b, 47b are identified at the nasal bridge region 38 in Figure 3. Further, the cross-sectional views of Figures 6, 8, 10A, 10B and 11 are taken through the nasal bridge region as indicated by section lines A-A. In all of the sections of Figures 6, 8, 10A, 10B and 11, the

membranes are present, not discontinuous, at the nasal bridge region. Claims 4, 5, and 26-29 are in condition for allowance.


Allowable Subject Matter

The Office Action indicated that claims 1-3 are allowable.

Prosecution Independent from Related Applications

Since the present application is a continuation of one or more previously filed applications and/or patents and specifically seeks claims of differing scope than in the parent application(s) and/or patents(s), Applicant presumes that the examination of the present claims was and is being conducted by giving the claims their broadest reasonable interpretation and without reliance on or incorporation of any arguments or amendments or other prosecution history related to the claims of the parent application(s) and/or patent(s). Any such arguments or amendments or other prosecution history that may have occurred in the parent application(s) and/or patent(s) are not intended to limit the scope of the present claims or to affect their interpretation or construction.

Applicant requests reconsideration and allowance of this application in view of the foregoing amendments, remarks, the concurrently filed information disclosure statement and all prior art that is of record in the present application.

Date: <u>12/10/2007</u>	Respectfully submitted,   _____ Kenneth J. Smith, Registration No. 45,115 Customer No. 24024 Telephone: 216-622-8674
-------------------------	---